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No. 81-52

IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

CONTROL DATA CORPORATION,
SPERRY CORPORATION,
STORAGE TECHNOLOGY CORPORATION,
Cross-Petitioners,

v.

POTTER INSTRUMENT CO., *Cross-Respondent.*

CROSS-PETITIONERS' BRIEF IN REPLY TO RESPONDENT'S OPPOSITION TO CROSS-PETITION FOR WRIT OF CERTIORARI

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Now come cross-petitioners and respond to Potter Instrument Company's opposition to the cross-petition for writ of certiorari.

The subject cross-petition was filed pursuant to Rule 19.5 in connection with a petition for certiorari, Docket 80-2097, by cross-respondent Potter Instrument Co. (hereafter PICO). The subject cross-petition also corresponds to an interlocutory petition for writ of certiorari before judgment, Docket 80-561, filed pursuant to Rule 18 on October 8, 1980 by cross-petitioner Control Data Corporation. The interlocutory petition for certiorari was denied, with Justice White dissenting because of conflicts in the circuits.

PICO has not filed a proper brief in opposition to the subject cross-petition. Rather, in its reply brief in the related petition, Docket No. 80-2097, PICO references the subject cross-petition (Docket 81-52) and, while indicating that it does not intend to file an opposing brief in respect of the cross-petition, states that it opposes grant

of the cross-petition "for the same reasons that it opposed the grant of Petition in Docket No. 80-561."

PICO's reference to its opposition to the earlier corresponding interlocutory petition Docket No. 80-561 is inappropriate. Other than a bare, unsupported statement that it disputes that its motions were skeletal, PICO's opposition to the earlier corresponding petition was entirely based upon the interlocutory nature of the petition under Rule 18. Those arguments have no application whatsoever to the subject cross-petition under Rule 19.5.

Accordingly, it is respectfully urged that in the event PICO's petition Docket No. 80-2097 is granted, the subject cross-petition be granted as well.

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